

§ 37.149

(b) Comments submitted by the state, if applicable;

(c) Whether the plan contains responsive elements for each component required under § 37.139 of this part;

(d) Whether the plan, when viewed in its entirety, provides for paratransit service comparable to the entity's fixed route service;

(e) Whether the entity complied with the public participation efforts required by this part; and

(f) The extent to which efforts were made to coordinate with other public entities with overlapping or contiguous service areas or jurisdictions.

§ 37.149 Disapproved plans.

(a) If a plan is disapproved in whole or in part, FTA will specify which provisions are disapproved. Each entity shall amend its plan consistent with this information and resubmit the plan to the appropriate FTA Regional Office within 90 days of receipt of the disapproval letter.

(b) Each entity revising its plan shall continue to comply with the public participation requirements applicable to the initial development of the plan (set out in § 37.137 of this part).

§ 37.151 Waiver for undue financial burden.

If compliance with the service criteria of § 37.131 of this part creates an undue financial burden, an entity may request a waiver from all or some of the provisions if the entity has complied with the public participation requirements in § 37.137 of this part and if the following conditions apply:

(a) At the time of submission of the initial plan on January 26, 1992—

(1) The entity determines that it cannot meet all of the service criteria by January 26, 1997; or

(2) The entity determines that it cannot make measured progress toward compliance in any year before full compliance is required. For purposes of this part, measured progress means implementing milestones as scheduled, such as incorporating an additional paratransit service criterion or improving an aspect of a specific service criterion.

(b) At the time of its annual plan update submission, if the entity believes

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that circumstances have changed since its last submission, and it is no longer able to comply by January 26, 1997, or make measured progress in any year before 1997, as described in paragraph (a)(2) of this section.

§ 37.153 FTA waiver determination.

(a) The Administrator will determine whether to grant a waiver for undue financial burden on a case-by-case basis, after considering the factors identified in § 37.155 of this part and the information accompanying the request. If necessary, the Administrator will return the application with a request for additional information.

(b) Any waiver granted will be for a limited and specified period of time.

(c) If the Administrator grants the applicant a waiver, the Administrator will do one of the following:

(1) Require the public entity to provide complementary paratransit to the extent it can do so without incurring an undue financial burden. The entity shall make changes in its plan that the Administrator determines are appropriate to maximize the complementary paratransit service that is provided to ADA paratransit eligible individuals. When making changes to its plan, the entity shall use the public participation process specified for plan development and shall consider first a reduction in number of trips provided to each ADA paratransit eligible person per month, while attempting to meet all other service criteria.

(2) Require the public entity to provide basic complementary paratransit services to all ADA paratransit eligible individuals, even if doing so would cause the public entity to incur an undue financial burden. Basic complementary paratransit service in corridors defined as provided in § 37.131(a) along the public entity's key routes during core service hours.

(i) For purposes of this section, key routes are defined as routes along which there is service at least hourly throughout the day.

(ii) For purposes of this section, core service hours encompass at least peak periods, as these periods are defined locally for fixed route service, consistent with industry practice.